Qualified Tuition Programs/Internal Revenue Code (IRC) Section 529 Plans

Public Chapter 712, Acts of 2004 and Public Chapter 499, Acts of 2005

Individual Income tax notice **#06-03**

In May 2004, Public Chapter 712 amended Tennessee law regarding the exemption of college educational savings plans, educational service plans, and college savings bonds (collectively referred to here as "college savings plans") from state and local taxation.

Prior to Public Chapter 712, assets of and distributions from Tennessee college savings plans were exempt from state and local tax under Tenn. Code Ann. Section 49-7-822. However, non-Tennessee plans were not exempt.

Public Chapter 712 extended the exemption from state and local taxation to assets, income, and distributions of both in-state and out-of-state college savings plans (including Internal Revenue Code Section 529 plans).

Effective June 22, 2005, Public Chapter 499 amended Tenn. Code Ann. Section 67-8-104(d) to exempt from the gift tax both contributions to and distributions from such college savings plans.

The following explains how assets, income, and distributions of college savings plans are treated for Hall income tax, inheritance tax, and gift tax based on current Tennessee law:

HALL INCOME TAX

Income earned on college savings plans, as defined in Tenn. Code Ann. Section 49-7-822 is exempt from individual income tax.

INHERITANCE TAX

Assets held in a college savings plan, as defined in Tenn. Code Ann. Section 49-7-822 are not included in the gross estate of the decedent.

GIFT TAX

College savings plans allow the owner to retain control over the assets until they are distributed. This is known as a revocable transfer. Under Tennessee gift tax law, revocable transfers by a donee are not considered a completed gift. Therefore, revocable gifts to a college savings plan do not trigger a taxable event for Tennessee gift tax purposes.

Individuals other than the account owner may also make contributions to a college savings plan. With the enactment of Public Chapter 499, Acts of 2005, these irrevocable transfers/contributions are no longer subject to the gift tax when made to college savings plans in existence on June 22, 2005, or established after that date.

Additionally, Public Chapter 499 makes all distributions from such college savings plans, made to or on behalf of the beneficiary, exempt from the gift, inheritance, estate, or other Tennessee transfer tax.

This notice supersedes any previous important notices on qualified tuition programs and Internal Revenue Code (IRC) Section 529 Plans.

If you have questions regarding this notice, please contact the department. Tennessee residents outside the Nashville calling area may call our statewide toll-free number at (800) 342-1003. Callers from Nashville or out-of-state may dial (615) 253-0600. You can access additional tax information on the department's Web site at www.Tennessee.gov/revenue.

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